

Appl. No. 10/533,923
Amdt. Dated October 11, 2006
Reply to Final Action of August 30, 2006

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REMARKS

This application has been reviewed in light of the Final Action mailed on August 30, 2006. Claims 1, 3 to 7, 9 and 10 are currently pending in the present application. Reconsideration of the present application under 37 C.F.R. 1.116 is respectfully requested.

Claims 1, 3 to 7, 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,408,187 to Merriam (hereinafter "Merriam") in view of U.S. Patent No. 7,054,352 to Hasegawa et al. (hereinafter "Hasegawa"). Applicants respectfully submit that the combination of Merriam and Hasegawa does not render obvious independent claims 1 and 7 or claims 3 to 6, which depend from claim 1 or claims 9 to 10, which depend from claim 7.

It is an object of the present invention to provide a means for automatically informing a caller of what the owner of a mobile device is actually doing when a call is received by retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information on the user's context or environment. Accordingly, claim 1 is directed to a method of presenting an information item on a mobile device, the method comprising the steps of: retrieving an identification of at least one of user gear and apparel, the apparel providing the mobile device with information on the user's context or environment; determining a mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an

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identification of the mobile device to a service provider; determining and presenting the information item dependent on the mode, receiving a first message from a caller sent to said mobile device; determining a second message dependent on the mode, when the first message is received; and sending the second message to the caller as a response to said first message.

Claim 7 is directed to a mobile device for presenting an information item, said mobile device comprising: at least one identification reader for retrieving an identification of at least one of user gear and apparel; means for determining a mode reflecting at least one attribute of identified gear and apparel and means for optionally sending the mode with an identification of said mobile device to a service provider; means for determining and presenting the information item dependent on said mode; means for receiving a first message from a caller; means for determining a second message dependent on said mode, when said first message is received; and means for sending the second message to the caller as a response to said first message.

Merriam fails to disclose a means for retrieving an identification of at least one of user gear and apparel, *the apparel* providing the mobile device with information on the user's context or environment and a means for determining a mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider. In fact, Merriam simply discloses means for enabling a communications device to automatically adapt its

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behavior to conform to its immediate environment. An item of apparel which identifies information regarding the caller's environment is not described.

The Action cites Hasegawa for determining a second message dependent on the mode, when the first message is received; and a means for sending the second message to the caller as a response to the first message. The Applicants respectfully submit that Hasegawa, like Merriam, fails to disclose a means for retrieving an identification of at least one of user gear and apparel, *the apparel* providing the mobile device with information on the user's context or environment and a means for determining a mode reflecting at least one attribute of identified gear and apparel and optionally sending the mode with an identification of the mobile device to a service provider. As disclosed in the subject specification on page 2, lines 5 to 13, IDs of gear and apparel provide a mobile device with information on the user's context or environment, such as the user's clothes, glasses, shoes, sports gear or music gear. This is possible since the gear and apparel each may have an identification code, such as a printed barcode, a printed pattern, a smart card, a magnet stripe, a transponder, a code tag, etc. Thus, one or more attributes may be comprised in the identification code. The identification code, with corresponding attributes, are then readable by the mobile device.

Hasegawa fails to disclose an item of apparel or similar means for retrieving information regarding a user's context or environment. Hasegawa simply discloses a CDMA mobile telephone that allows a drive mode to be automatically set and canceled without increasing the amount of hardware. Specifically, Hasegawa discloses a mobile

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telephone apparatus operable in a CDMA communications system that includes: a despreading circuit for despreading received spectrum-spread data of a plurality of branches to produce despread data each corresponding a plurality of fingers; a frequency offset detector for detecting a frequency off set for each of the fingers from the despread data; a movement determiner for determining whether the mobile telephone is moving at speeds higher than a predetermined speed, based on frequency offsets received from the frequency offset detector; and a mode controller for switching an operation mode between a drive mode and a normal mode depending on whether the mobile telephone apparatus is moving at speeds higher than the predetermined speed. Thus, Hasegawa simply discloses a movement determiner. Moreover, the movement determiner of Hasegawa is disposed on the mobile telephone apparatus. Hasegawa fails to disclose a means for retrieving any other information about the user's environment; much less a means for retrieving such information *from the user gear or apparel*, as is clearly claimed in claims 1 and 7 of the subject application. Rather, Hasegawa merely discloses a movement indicator which is a Doppler frequency calculator for calculating Doppler frequencies. To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Thus, Merriam and Hasegawa, even when combined as suggested by the Action, still fail to anticipate all elements of claims 1 and 7. Accordingly, for at least these reasons, independent claims 1 and 7 are clearly patentable over the cited combination.

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Claims 3 to 6 depend directly or indirectly from claim 1 and provide further features thereto. Claims 9 and 10 depend from claim 7 and provide further distinguishing features thereto. Accordingly, claims 3 to 6 and 9 and 10 are clearly distinguishable over the combination of Merriam and Schmidt for at least the reasons discussed with respect to claims 1 and 7. By way of example, the method disclosed in claim 3 discloses a step of determining a second message comprising the steps of: sending the mode with an identification of said mobile device to a service provider; and determining the second message based on the received mode and the identification of said mobile device on the service provider. Claim 4 is directed to a step of: modifying at least one attribute of gear and apparel. Claim 5 is directed to the method of claim 1, wherein the mobile device is a personal digital assistant, palm top, cell phone or a mobile phone. Claim 6 is directed to a computer program product comprising program code means stored on a computer readable medium for performing the method of any one of claims 1 through 5 when the computer program is run on a computer. Claim 9 is directed to a mobile device having a means for sending the mode with an identification of said mobile device to a service provider, where said service provider determines the second message. Claim 10 is directed to a mobile device having a means for modifying at least one attribute of gear and apparel.

Accordingly, the rejections under 35 U.S.C. § 103(a) of claim 1 and claims 3 to 6, which depend therefrom and claim 7 and claims 9 and 10, which depend therefrom should be withdrawn and claims 1, 3 to 7 and 9 to 10 should be allowed.

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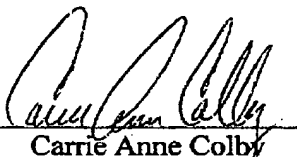
Conclusion

In view of the foregoing, Applicants respectfully submit that the specification, the drawings and all claims presented in this application are currently in condition for allowance. Accordingly, Applicants respectfully request favorable consideration and that this application be passed to allowance.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

Applicants' representative believes that this response is being filed in a timely manner. In the event that any extension and/or fee is required for the entry of this amendment the Commissioner is hereby authorized to charge said fee to Deposit Account No. 14-1270. An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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